



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

000000

EPA Region 5 Records Ctr.



216801

NOV 15 2002

By Overnight Mail

REPLY TO THE ATTENTION OF

Mr. Glen W. Ekberg
8065 Harrisville Road
Rockford, Illinois 61109

C-14J

Re: Southeast Rockford Groundwater Superfund Site - Rockford (Winnebago county) IL
Area 7 Access and Use Issues

Dear Mr. Ekberg:

It has come to the attention of the United States Environmental Protection Agency (US EPA) and the Illinois Environmental Protection Agency (IL EPA) that you are currently engaged in dumping or earth moving activities at the portion of the above referenced National Priorities List, 40 C.F.R. Part 300, Appendix B, Superfund Site, in the same area wherein you have previously been advised not to perform such activities. Between November 2000 and February 2001, in a series of combined letters and information requests, US EPA advised you of its serious concern regarding your earth-moving, dumping and other activities at or in the area immediately adjacent to Area 7 of the Superfund Site. Further, the Agencies have received information suggesting that you are allowing or encouraging other individuals to perform the same activities at the Site. These actions are neither advisable nor desired by US EPA, IL EPA or affected members of the general public for the reasons set forth in this letter.

As you were previously notified in a November 2000 letter from US EPA, the Area 7 portion of the Southeast Rockford Groundwater Superfund Site is defined as the area essentially located within the following boundaries: the Illinois Central Gulf and Chicago Northwestern Railroad tracks on the north, Sandy Hollow Road on the south, Alpine Road on the east and Twentieth Street to the west. This entire area has been tested, sampled for soil, water and soil vapor components, and undergone extraordinary scientific and technical review since the 1991-1994 Remedial Investigation (RI), and in June 2002 a 153-page Record of Decision (ROD) was issued containing results of the RI and subsequent Feasibility Study (FS), a Proposed Plan for Remedial Action and a Responsiveness Summary. Altogether, these activities represent a great deal of manpower and federal and state taxpayer dollars, and were undertaken by the Agencies authorized to deal with this sort of environmental contamination, and supported by informed public assent to the final proposed remedial solutions.

In order for the state and federal Agencies to perform a successful and efficient clean up of Area 7, we will need the cooperation of land owners such as yourself. It is necessary that you stop placing fill and other materials in the portion of your property that lies within Area 7 (defined above), specifically, east of Ekberg Park, and on either side of the creek which flows along the park's northern border and the rail road tracks running alongside the creek. It is also necessary

that you no longer allow other parties to have access to the portion of your property that lies within Area 7. It is essential that the dumping of soil, fill, debris, concrete, asphalt and any other objects or items cease immediately in and around the immediate vicinity of Area 7. No one should be disturbing, adding to or removing any soil or water in the Area 7 location. It is also essential that the grade of the land in that area not be altered for the time being, until the nature and extent of specific contamination may be determined and an appropriate response action developed. The soil, water and other materials at that part of Area 7 may all be contaminated. IL EPA has placed groundwater monitoring wells in the above described portion of Area 7. These wells and surrounding ground areas must be left undisturbed. This is to prevent cross-contamination of pollutants, migration off-site of hazardous substances, and any other factors that may exacerbate environmental contamination at this Superfund Site. In the case of the dumping of fill and other materials at your portion of the Area 7 Site, US EPA and IL EPA have no way of knowing whether any contaminated materials may be adding to the problems of the overall Site, nor whether existing contamination may accidentally be spread around a broader area and thus made more difficult to test, treat or remove. There is also the possibility that your actions may have released hazardous substances from the Area 7 portion of the Site to other locations.

For these reasons, US EPA and IL EPA need to know as much as possible about the nature and content of the materials that you have recently brought or allowed to be brought to the portion of your property that is a part of Area 7. If you cannot provide manifests and quality assured analyses of samples of the materials left at Area 7 of the Superfund Site, then US EPA and IL EPA will need to take samples for analysis within the next approximately thirty (30) days. IL EPA has the lead in the cleanup at the Site, and if you do not first contact IL EPA, within the next ten (10) days in response to this letter, you will be contacted by someone from the appropriate IL EPA office and a sampling schedule will be arranged. The contact at IL EPA is Mr. Thomas Williams, Project Manager, telephone number: 815/223-1714. It is advisable that you cooperate fully with IL EPA in this matter.

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) provides administrative authorities to US EPA, including authority to issue compliance orders regarding access to information, entry, inspection and sampling and the taking of necessary response actions at places or properties where hazardous substances have been or may have been released. Moreover, it is a violation of federal law to improperly fail to comply with such orders concerning access to and duly designated Agency response to an imminent and substantial endangerment to public health, welfare or the environment at a Superfund site. The potential civil liability can be up to \$27,500.00 per day per violation of such compliance orders. See, CERCLA Sections 104(e)(1)-(5) and 106(b)(1), 42 U.S.C. Sections 9604(e)(1)-(5) and 9606(b)(1).

We very much want to resolve this specific matter with you informally, in a manner that is reasonable, equitable, proper and protective of the general public and the environment. Please respond to this letter and make proper and necessary arrangements to cease any and all dumping

of fill or any other material (by any party) at the Area 7 part of your property, and contact IL EPA about sampling the materials of concern that I have described. If we cannot come to an accord and agreement on these matters of access and proper control of the Area 7 Superfund Site informally by means of correspondence and discussion, then it may be necessary for US EPA and IL EPA to consider other avenues of recourse including enforcement remedies available to the agencies under CERCLA.

US EPA and IL EPA will be contacting you in the near future about expanding the access agreement that you signed in May 1992, in order to prepare for the performance of Remedial Design and Remedial Action work over the next 18 to 24 months. US EPA and IL EPA each reserve the right to take necessary legal actions to ensure compliance with relevant state and federal laws in this matter. Please feel free to contact me with any comments or questions at 312/886-6613.

Very truly yours,



Tom Turner
Associate Regional Counsel

cc:  R. Hart, RPM (SR-6J)
US EPA

M. Reed, Esq/F. Biros, Esq.
US Dept. of Justice - ENRD/EES

T. Williams, Project Manager
IL EPA - LaSalle, IL Office

P. Jagiello, Esq.
IL EPA Law Section

E. Wallace, Esq.
IL AG Office